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# State v. Taylor Appellant's Brief Dckt. 44226

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 44226
Plaintiff-Respondent,	)	
	)	TWIN FALLS COUNTY NO. CR 42-2015-7150
v.	)	
	)	
ROY DEAN TAYLOR,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

After a jury trial, Roy Dean Taylor was found guilty of one felony count of driving under the influence. The district court imposed a sentence of ten years, with four years fixed. On appeal, Mr. Taylor asserts that the district court abused its discretion when it imposed the sentence.

## Statement of the Facts & Course of Proceedings

In July of 2015, Mr. Taylor's mother called the police and reported that her son was suicidal. (Presentence Report (hereinafter, "PSI"), p.9.)<sup>1</sup> Officer Baisch, from the Twin Falls Police Department, responded. (PSI, p.9.) When Officer Baisch arrived, he saw Mr. Taylor sitting in a car in front of his mother's home. (PSI, p.9.) Officer Baisch told Mr. Taylor to get out of the car and detained him in handcuffs. (PSI, p.9.) Officer Baisch then noticed that Mr. Taylor had slurred speech and smelled of alcohol. (PSI, p.9.) Mr. Taylor was subsequently arrested, and his breath test results were .200/.201. (PSI, p.9.)

After a preliminary hearing, Mr. Taylor was bound over to the district court. (R., p.57.) After a jury trial, Mr. Taylor was found guilty of one felony count of driving under the influence. (R., pp.178-79.) The district court imposed a sentence of ten years, with four years fixed.<sup>2</sup> (R., p.180.) Subsequently, Mr. Taylor filed a Notice of Appeal that was timely from the district court's judgment of conviction. (R., pp.188-90.)

## ISSUE

Did the district court abuse its discretion when it imposed a sentence of ten years, with four years fixed, following Mr. Taylor's conviction for driving under the influence?

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<sup>1</sup> All citations to the PSI and its attachments refer to the 80-page electronic document.

<sup>2</sup> At the time of this offense, Mr. Taylor was on probation for a previous felony driving under the influence charge. (PSI, p.30.)

## ARGUMENT

### The District Court Abused Its Discretion When It Imposed A Sentence Of Ten Years, With Four Years Fixed, Following Mr. Taylor's Conviction For Driving Under The Influence

Based on the facts of this case, Mr. Taylor's sentence of ten years, with four years fixed, is excessive because it is not necessary to achieve the goals of sentencing. When there is a claim that the sentencing court imposed an excessive sentence, the appellate court will conduct an independent examination of the record giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. See *State v. Reinke*, 103 Idaho 771 (Ct. App. 1982).

Independent appellate sentencing examinations are based on an abuse of discretion standard. *State v. Burdett*, 134 Idaho 271, 276 (Ct. App. 2000). When a sentence is unreasonable based on the facts of the case, it is an abuse of discretion. *State v. Nice*, 103 Idaho 89, 90 (1982). Unless it appears that confinement was necessary "to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation or retribution applicable to a given case," a sentence is unreasonable. *State v. Toohill*, 103 Idaho 565, 568 (Ct. App. 1982). Accordingly, if the sentence is excessive, "under any reasonable view of the facts," because it is not necessary to achieve these goals, it is unreasonable and therefore an abuse of discretion. *Id.*

There are several mitigating factors that illustrate why Mr. Taylor's sentence is excessive under any reasonable view of the facts. First, Mr. Taylor has a serious alcohol abuse problem. He said that he started drinking when he was only 11 years old and was drinking on a regular basis by the time he was 16. (PSI, p.24.) He has had

some treatment, but it is evident that Mr. Taylor continues to drink alcohol in response to significant stressors in his life. (PSI, pp.24-25.) For example, he said he started drinking heavily after his divorce in 2005. (PSI, p.25.) Mr. Taylor needs more help to address the triggers behind his alcohol use, and a defendant's problems with alcohol abuse should be considered as mitigating information. *State v. Nice*, 103 Idaho 89, 91 (1982) (reducing defendant's sentence, in part, because "the trial court did not give proper consideration of the defendant's alcoholic problem, the part it played in causing defendant to commit the crime [the defendant had been drinking at the time of the offense] and the suggested alternatives for treating the problem").

This kind of drinking pattern is supported by the letter that Mr. Taylor's mother wrote on his behalf. She described some of the positive attributes of Mr. Taylor's character and noted that Mr. Taylor's driving under the influence charges followed traumatic events in his life, such as his father passing away or a split from his wife. (PSI, p.51.) While this is not an excuse, it does suggest a pattern that could be targeted with additional treatment and potentially therapy. His mother also wrote that she felt Mr. Taylor still had issues from her divorce from Mr. Taylor's father and that she and her ex-husband "never taught any good coping skills to any of our children during their childhood." (PSI, p.51.) Nevertheless, she noted that Mr. Taylor had "always been a hard worker, and the kind of person to always be there for his loved ones in their time of need." (PSI, p.51.) She explained that Mr. Taylor had been a volunteer while he was attending the College of Southern Idaho, and that he was a "good son, a good father, and a good leader for the family." (PSI, p.51.) Finally, she wrote that Mr. Taylor needed

treatment, and she felt a “long period of incarceration” would teach him nothing. (PSI, p.52.)

Similarly, a friend who said she had known Mr. Taylor “since he was a little boy” wrote a letter on his behalf and explained that Mr. Taylor was “usually an easy going” and “responsible person.” (PSI, p.50.) She also noted that Mr. Taylor was a hard worker who loved his family and children. (PSI, p.50.) Mr. Taylor’s fiancé also wrote a letter on his behalf. (PSI, p.53.) She said that she had also known Mr. Taylor since they were children, and he was a “hard worker” who “provided for [their] children the best that he could.” (PSI, p.53.) She also commented on the fact that Mr. Taylor was going to school and working full-time before the couple found out they would be having another child. (PSI, p.53.) She said that he then “did what he needed to do to support our children.” (PSI, p.53.) Finally, she said that he was a “good father, worker, and friend to many in the community.” (PSI, p.53.)

Additionally, Mr. Taylor struggles with mental health issues. He suffers with a mood disorder and an anxiety disorder. (PSI, p.45.) He has struggled with depression and continues to take medication for this condition. (PSI, pp.24, 45.) He also admitted that he has battled suicidal thoughts throughout his life. (PSI, p.24.) A defendant’s mental health problems are should be considered as mitigating information at sentencing. *State v. Odiaga*, 125 Idaho 384, 391 (1994).

Finally, Mr. Taylor accepted responsibility and demonstrated remorse over this offense. At the sentencing hearing, he admitted that he did commit the offense. (3/28/16 Tr., p.43, L.9.) He acknowledged that he used bad judgment and said, “I did something that I have had to regret for the last 256 days.” (3/28/16 Tr., p.43, Ls.10-13.)

Also, when asked how he feels about the offense, he said that he felt “ashamed” and regretted how it had hurt his family. Defendants’ expressions of remorse and acceptance of responsibility are also long-recognized mitigating factors. *State v. Shideler*, 103 Idaho 593, 594-95 (1982).

Given all the mitigating information in this case, Mr. Taylor asserts that his sentence was excessive because it was not necessary to accomplish the goals of sentencing outlined in *Toohill*. He submits that the district court did not adequately consider the mitigating factors in his case and therefore abused its discretion when it imposed his sentence.

#### CONCLUSION

Mr. Taylor respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new sentencing hearing.

DATED this 24<sup>th</sup> day of January, 2017.

\_\_\_\_\_/s/\_\_\_\_\_  
REED P. ANDERSON  
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 24<sup>th</sup> day of January, 2017, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

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G RICHARD BEVAN  
DISTRICT COURT JUDGE  
E-MAILED BRIEF

GREG J FULLER  
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E-MAILED BRIEF

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
E-MAILED BRIEF

\_\_\_\_\_/s/\_\_\_\_\_  
EVAN A. SMITH  
Administrative Assistant

RPA/eas